EX PARTE OR LATE FILED

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Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of	)	
	)	
Implementation of Section 309(j)	)	PP Docket No. 93-253
of the Communications Act	)	
Competitive Bidding Treatment of	)	
Designated Entities	)	

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JUN 2 2 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Secretary

EX PARTE PRESENTATION

MasTec, Inc. submits an original plus one copy of this memo and attached letters (hand-delivered ex-parte to Chairman Reed Hundt and Commissioners James Quello, Rachelle Chong, Susan Ness, and Andrew Barrett and Lauren Belvin, Rudolfo Baca, Karen Brinkmann, Blair Levin, Robert M. Pepper, Donald Gips, William Kennard, Gregory Vogt, Rosalind Allen, Byron Marchant, Jane Mago, and Richard Welch) for inclusion in the record of the above-referenced rule making proceeding.

Respectfully submitted,

for Matthew L. Leibowitz
Counsel for MasTec, Inc.

June 21, 1994

Leibowitz and Associates
One S.E. Third Avenue
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(305) 530-1322

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 21, 1994

Via Overnight Delivery

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW Room 814
Washington, DC 20554

Re: PP Docket No. 93-253
Gen Docket No. 90-314
RM-7140, RM-7175, RM-7618

Dear Chairman Hundt:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of $100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of $178,126,000, it only had a net income of $525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of $50,000,000. As of March 31, 1994, MasTec's net worth was approximately $45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's <u>Opinion and Order</u>, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing in PCS. As you are aware, while minorities and women might not hold any significant ownership interests in many telecommunications entities, minorities and women have been appointed as officers and directors of many companies. As a result they have gained significant experience in managing these companies. These people should not be penalized in the upcoming PCS licensing for serving in these capacities. Thus, at least for minorities and women, I would urge the Commission not to extend the attribution rules to officers and directors.

Finally, we have heard rumor that the Commission may retreat from its earlier decision to require Designated Entities to own and control 50.1% of a PCS license. Specifically, some have suggested that Designated Entities need only maintain a 20% economic interest in the licensee. We respectfully urge you to reject this proposal. It is our belief that Designated Entities will have sufficient financing available through joint ventures on a 50.1% - 49.9% basis and that it is contrary to the interests of Designated Entities to reduce this threshold of economic ownership and benefits.

Thank you for your consideration of these issues.

Sincerely yours,

Matthew L. Leibowitz /mr

Matthew L. Leibowitz
Counsel for MasTec, Inc.

MLL/mdr

cc: Karen Brinkmann, Special Assistant
Blair Levin, Chief of Staff
Robert M. Pepper, Chief, Office of Plans and Policy
Donald H. Gips, Deputy Chief, Office of Plans and Policy
William E. Kennard, General Counsel

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June 21, 1994

Via Overnight Delivery

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, NW Room 802
Washington, DC 20554

Re: PP Docket No. 93-253
Gen Docket No. 90-314
RM-7140, RM-7175, RM-7618

Dear Commissioner Quello:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of $100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of $178,126,000, it only had a net income of $525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of $50,000,000. As of March 31, 1994, MasTec's net worth was approximately $45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's Opinion and Order, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing in PCS. As you are aware, while minorities and women might not hold any significant ownership interests in many telecommunications entities, minorities and women have been appointed as officers and directors of many companies. As a result they have gained significant experience in managing these companies. These people should not be penalized in the upcoming PCS licensing for serving in these capacities. Thus, at least for minorities and women, I would urge the Commission not to extend the attribution rules to officers and directors.

Finally, we have heard rumor that the Commission may retreat from its earlier decision to require Designated Entities to own and control 50.1% of a PCS license. Specifically, some have suggested that Designated Entities need only maintain a 20% economic interest in the licensee. We respectfully urge you to reject this proposal. It is our belief that Designated Entities will have sufficient financing available through joint ventures on a 50.1% - 49.9% basis and that it is contrary to the interests of Designated Entities to reduce this threshold of economic ownership and benefits.

Thank you for your consideration of these issues.

Sincerely yours,

Matthew L. Leibowitz

Matthew L. Leibowitz
Counsel for MasTec, Inc.

MLL/mdr

cc: Lauren J. ("Pete") Belvin, Senior Legal Advisor
Rudolfo M. Baca, Legal Advisor

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June 21, 1994

Via Overnight Delivery

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, NW Room 844
Washington, DC 20554

Re: PP Docket No. 93-253
Gen Docket No. 90-314
RM-7140, RM-7175, RM-7618

Dear Commissioner Chong:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of $100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of $178,126,000, it only had a net income of $525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of $50,000,000. As of March 31, 1994, MasTec's net worth was approximately $45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's Opinion and Order, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing in PCS. As you are aware, while minorities and women might not hold any significant ownership

interests in many telecommunications entities, minorities and women have been appointed as officers and directors of many companies. As a result they have gained significant experience in managing these companies. These people should not be penalized in the upcoming PCS licensing for serving in these capacities. Thus, at least for minorities and women, I would urge the Commission not to extend the attribution rules to officers and directors.

Finally, we have heard rumor that the Commission may retreat from its earlier decision to require Designated Entities to own and control 50.1% of a PCS license. Specifically, some have suggested that Designated Entities need only maintain a 20% economic interest in the licensee. We respectfully urge you to reject this proposal. It is our belief that Designated Entities will have sufficient financing available through joint ventures on a 50.1% - 49.9% basis and that it is contrary to the interests of Designated Entities to reduce this threshold of economic ownership and benefits.

Thank you for your consideration of these issues.

Sincerely yours,

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Matthew L. Leibowitz
Counsel for MasTec, Inc.

MLL/mdr

cc: Jane E. Mago, Senior Advisor
Richard K. Welch, Legal Advisor

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June 21, 1994

Via Overnight Delivery

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW Room 832
Washington, DC 20554

Re: PP Docket No. 93-253
Gen Docket No. 90-314
RM-7140, RM-7175, RM-7618

Dear Commissioner Ness:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of $100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of $178,126,000, it only had a net income of $525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of $50,000,000. As of March 31, 1994, MasTec's net worth was approximately $45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's Opinion and Order, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing in PCS. As you are aware, while minorities and women might not hold any significant ownership

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Thank you for your consideration of these issues.

Sincerely yours,

Matthew L. Leibowitz

Matthew L. Leibowitz
Counsel for MasTec, Inc.

MLL/mdr

cc: Gregory J. Vogt, Interim Advisor
Rosalind Allen, Interim Advisor

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June 21, 1994

Via Overnight Delivery

Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, NW Room 826
Washington, DC 20554

Re: PP Docket No. 93-253
Gen Docket No. 90-314
RM-7140, RM-7175, RM-7618

Dear Commissioner Barrett:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of $100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of $178,126,000, it only had a net income of $525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of $50,000,000. As of March 31, 1994, MasTec's net worth was approximately $45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's Opinion and Order, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing in PCS. As you are aware, while minorities and women might not hold any significant ownership

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Thank you for your consideration of these issues.

Sincerely yours,

Matthew L. Leibowitz

Matthew L. Leibowitz
Counsel for MasTec, Inc.

MLL/mdr

cc: Byron F. Marchant, Senior Legal Advisor